

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,) CASE NO. CR04-301-MJP
Plaintiff,)
v.)
ALEXANDER ACOSTA,) SUMMARY REPORT OF U.S.
Defendant.) MAGISTRATE JUDGE AS TO
) ALLEGED VIOLATIONS
) OF SUPERVISED RELEASE
_____)

An evidentiary hearing on supervised release revocation in this case was scheduled before me on April 27, 2009. The United States was represented by AUSA James M. Lord and the defendant by Matthew N. Menzer. The proceedings were digitally recorded.

Defendant had been sentenced on or about June 17, 2005 by the Honorable Marsha J. Pechman on a charge of Conspiracy to Distribute Cocaine and Methamphetamine, and sentenced to 53 months custody, 3 years supervised release. (Dkt. 853.)

The conditions of supervised release included the standard conditions plus the requirements that defendant cooperate in the collection of DNA, be prohibited from possessing a firearm, submit to mandatory drug testing, participate in a drug dependency program, submit

01 to search, provide access to financial information, and be prohibited from obtaining any new lines
02 of credit or credit obligations.

03 On May 2, 2008, defendant's probation officer reported that defendant had tested positive
04 for marijuana. Defendant was reprimanded and placed in a structured testing program. No
05 further action was taken at the time. (Dkt. 1252.) On June 25, 2008, the conditions of supervised
06 release were modified to require participation in the home confinement program for 120 days.
07 (Dkt. 1255.) On January 5, 2009, an additional 30 days home confinement was imposed. (Dkt.
08 1266.)

09 In an application dated February 27, 2009 (Dkt. 1271), U.S. Probation Officer Brian K.
10 Facklam alleged the following violation of the conditions of supervised release:

11 1. Using cocaine on or about January 31, 2009, in violation of standard condition 7
12 and the special condition requiring that he refrain from the use of drugs.

13 In an application dated March 11, 2009 (Dkt. 1278), U.S. Probation Officer Brian K.
14 Facklam alleged the following violation of the conditions of supervised release in a supplemental
15 violation report:

16 2. Committing the crimes of assault 4th degree and interfering with the reporting of
17 domestic violence on or about March 9, 2009, in violation of the general condition that he not
18 commit another federal, state, or local crime.

19 Defendant was advised in full as to those charges and as to his constitutional rights.

20 Defendant admitted alleged violation 1 and waived any evidentiary hearing as to whether
21 it occurred. The government presented testimony on alleged violation 2, and Exhibit 1 was
22 admitted into evidence. The evidence shows by a preponderance of the evidence that defendant

01 committed the offence of Assault - Domestic Violence on March 8, 2009, in violation of a
02 standard condition of supervised release. (Dkt. 1293.)

03 I therefore recommend the Court find defendant violated his supervised release as alleged
04 in violations 1 and 2, and that the Court conduct a hearing limited to the issue of disposition. The
05 next hearing will be set before Judge Pechman.

06 Pending a final determination by the Court, defendant has been detained.

07 DATED this 27th day of April, 2009.

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09 
10 Mary Alice Theiler
11 United States Magistrate Judge

12 cc: District Judge: Honorable Marsha J. Pechman
13 AUSA: James M. Lord
14 Defendant's attorney: Matthew N. Menzer
15 Probation officer: Brian K. Facklam
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